

EXHIBIT Y

VW exec arraigned on federal charges in Detroit

Jennifer Chambers, The Detroit News 2:34 p.m. ET Feb. 23, 2017



(Photo: AP)

A former high-ranking Volkswagen AG executive made a brief appearance in a federal courtroom in Detroit on Thursday to be arraigned on criminal charges in connection with the automaker's emission scandal.

Oliver Schmidt, 48, a German national and VW's former top emissions compliance manager for the United States, was arrested last month in Florida and has been in federal custody awaiting his first court appearance in Detroit, where the government's criminal case is based.

On Thursday, Schmidt appeared in a jail uniform with his hands cuffed and shackled to chains. His attorney, David DuMouchel, waived a reading of the indictment in court and Schmidt stood mute.

Schmidt is charged in a superseding indictment with conspiracy to defraud the United States, violating the Clean Air Act and aiding and abetting wire fraud. Schmidt was once responsible for the company's compliance with U.S. emissions regulations. He is a former general manager of the Engineering and Environmental Office for VW of America.

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U.S. Magistrate Judge R. Steven Whalen entered a not-guilty plea on Schmidt's behalf and ordered him temporarily detained.

Schmidt faces up to 20 years in prison on the wire fraud charges, five years on the conspiracy charge and two years on the charge of violating the Clean Air Act.

Last month Schmidt was ordered held in Miami where prosecutors had argued he posed a flight risk if released. He sought release on bail over the objections of federal prosecutors.

DuMouchel said he would be seeking bond for Schmidt, who worked in VW's Auburn Hills offices from 2012 to February 2015. DuMouchel told Whalen that Schmidt has been suffering from shingles and needed medication from his wife. He also asked that Schmidt be detained at the federal facility in Milan.

"This is a paper-intensive matter," DuMouchel said in court, saying it would be easier for Schmidt to have access to computers and paperwork available at Milan.

Whalen said he would order that Schmidt be seen by a doctor while in detention but he cannot order prison placement.

In a criminal complaint filed Dec. 30, FBI Special Agent Ian M. Dinsmore alleges Schmidt, who had been stationed in Auburn Hills managing the environmental office, committed the crimes from 2012 to 2015.

Schmidt was responsible for communicating and coordinating with U.S. regulatory agencies, including the U.S. Environmental Protection Agency and the California Air Resources Board, the complaint says.

In March 2015, Schmidt was promoted and returned to VW headquarters in Wolfsburg, Germany, where he played a direct role in VW's response to U.S. regulators' questions, the FBI said.

By that summer, U.S. regulators had discovered VW diesel vehicles emitted "substantially higher" emissions when being driven on the road than when undergoing standard U.S. emissions tests, and had repeatedly asked VW for an explanation for this discrepancy, the complaint alleges.

"Schmidt knew that the reason for this discrepancy was that VW had intentionally installed software in the diesel vehicles it sold in the United States from 2009 to 2015 designed to detect and cheat U.S. Emissions tests," the complaint reads.

Federal authorities allege Schmidt continued to deceive regulators by offering reasons for the discrepancy other than the fact that VW was intentionally cheating in order to allow sales to continue.

In all, six current and former VW executives were indicted in what regulators called a 10-year conspiracy to rig thousands of diesel cars to cheat emission standards.

Also charged in the case are: Heinz-Jakob Neusser, 56; Jens Hadler, 50; Richard Dorenkamp, 68; Bernd Gottweis, 69; and Jürgen Peter, 59, all of Germany.

James Robert Liang, leader of diesel competence for VW from 2008 through June, pleaded guilty to a criminal charge in Detroit in September for his role in the automaker's diesel emissions and is expected to plead guilty on May 5.

On March 10, Volkswagen AG is expected to plead guilty in Detroit to charges that it conspired to defraud the United States, violated the Clean Air Act and obstructed justice for its behavior in the emissions scandal.

The German-based company, which has offices in Oakland County, is charged by federal prosecutors with conspiring to enrich itself by deceiving U.S. regulators in order to get the necessary certificates to sell VW and Porsche cars in the United States, knowing those vehicles did not meet U.S. emission standards.

VW must pay \$2.8 billion in criminal fines and \$1.5 billion in civil penalties in the case.

The automaker has admitted to programming its diesel cars to trick emissions testers into believing the engines released far less pollution into the air than they actually do, in violation of the federal Clean Air Act. Regulators have said that in normal driving they emitted up to 40 times more smog-causing nitrogen oxide than the legal limit.

Volkswagen's plea agreement is pending approval by U.S. District Judge Sean Cox, who has been assigned to the case in Detroit.

jchambers@detroitnews.com

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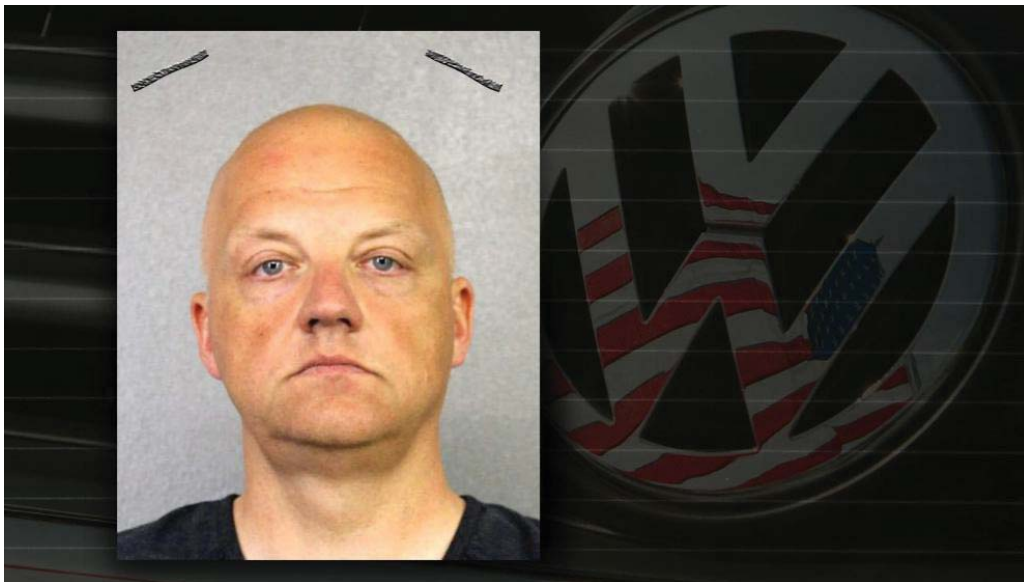




IHM DROHEN 169 JAHRE HAFT

VW-Manager in Hand- und Fußfesseln vor Gericht

Anwält plädiert auf „nicht schuldig“



Krank im Knast: Oliver Schmidt ließ über seinen Anwalt mitteilen, dass er Medikamente zur Behandlung einer Gürtelrose benötige

Foto: dpa, REUTERS

24.02.2017 - 11:38 Uhr

Er kam in roter Gefängniskleidung, gefesselt an Händen und Füßen: Der VW-Manager Oliver Schmidt erschien am Donnerstag zu einer Anhörung vor Gericht.

Doch zu sagen hatte Schmidt, dem in den USA der Prozess wegen angeblicher Beteiligung am Abgas-Skandal gemacht wird, dem Richter in Detroit nichts. Ihm drohen bis zu 169 Jahre Haft, doch Schmidt schwieg während der gesamten Anhörung – und ließ seinen Anwalt David DuMouchel sprechen.

DuMouchel verzichtete laut „Detroit News“

(<http://www.detroitnews.com/story/business/autos/2017/02/23/oliver-schmidt-volkswagen/98309960/>) auf

Verlesung der Anklage und plädierte auf nicht schuldig!

Schmidt wurde im Januar am Flughafen von Miami geschnappt, kurz bevor er von einem Florida-Urlaub wieder zurück nach Deutschland fliegen wollte. Hauptvorwurf gegen ihn: Er soll die Abgas-Manipulationen vertuscht und Ermittler in die Irre geführt haben.

Die 39-seitige Klageschrift umfasst etliche Anschuldigungen von bewussten Falschaussagen bis hin zur Vernichtung von Beweismitteln.

Sein Anwalt kündigte an, seinen Mandanten gegen Kaution auf freien Fuß zu bekommen. Ein entsprechender Antrag war bereits im Januar von einem Gericht in Miami abgelehnt worden. Zudem forderte er die Verlegung des Angeklagten in ein anderes Gefängnis sowie eine Lesebrille und Medikamente.

Grund für die Medikamente: Schmidt leidet offenbar an Gürtelrose! Das geht aus einem Audio-Dokument hervor, das BILD vorliegt.

42. According to CWs 1 and 2, and as corroborated by contemporaneous documentation, on or about July 27, 2015, SCHMIDT and other VW employees presented to VW's executive management in Wolfsburg, Germany, regarding the existence, purpose and characteristics of the defeat device. In the presentation, VW employees assured VW executive management that U.S. regulators were not aware of the defeat device—that is the engine's ability to distinguish between the dynamometer and road mode. Rather than advocate for disclosure of the defeat device to U.S. regulators, VW executive management authorized its continued concealment.

In der Klageschrift gegen Schmidt heißt es: „Anstatt die Abschalteinrichtung gegenüber den US-Behörden offenzulegen, autorisierte der Vorstand die fortlaufende Verschleierung.“

Einer von sechs Angeklagten

Als nächstes soll der Angeklagte dem zuständigen Richter Sean Cox vorgeführt werden. Ein Termin dafür sei aber noch nicht angesetzt worden, sagte ein Gerichtssprecher.

Schmidt war bei VW bis März 2015 in leitender Funktion mit Umweltfragen in den USA betraut. Er ist einer von sechs aktuellen bzw. Ex-Führungskräften, die die US-Justiz in der Dieselfälschung strafrechtlich belangen will. Die Mitarbeiter zählen zur zweiten Reihe, gehören nicht zur Konzernspitze.

Auf die anderen Angeklagten haben die US-Fahnder kaum Zugriff, da sie sich in Deutschland aufhalten dürften und ihnen keine Auslieferung droht. Sie werden beschuldigt, Teil einer Verschwörung zum Betrug und Verstoß gegen Umweltgesetze gewesen zu sein.

VW hat sich im US-Strafverfahren bereits auf Konzernebene schuldig bekannt, kriminelle Handlungen zugegeben und einem 4,3 Milliarden Dollar teuren Vergleich mit dem US-Justizministerium zugestimmt. Die Einigungen gelten jedoch nur für VW als Konzern – und schließen persönliche Verfahren und damit verbundene Strafen für Einzelpersonen nicht aus.

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Ingenieur van Volkswagen is het lachen vergaan

Begin een presentatie altijd met een grapje, heeft Oliver Schmidt geleerd tijdens een mediatraining. Dus spreekt de ingenieur van Volkswagen Duits als hij een groep Amerikaanse journalisten vertelt over de nieuwe dieselmotor van zijn bedrijf. 'Geintje', zegt hij na een paar zinnen tegen zijn verbaasde gehoor. Daarna vervolgt hij zijn betoog in het Engels en brengt hij met zijn monotone stem de vele voordelen van de motor onder de aandacht. Vooral op milieugebied zijn de prestaties volgens Schmidt indrukwekkend.



Oliver Schmidt (Foto: ©Joe Wilssens Photography)

Voortekenen al zichtbaar

Het is augustus 2014 en het duurt nog ruim een jaar voordat het schandaal rond de sjoemelsoftware in volle hevigheid losbarst. Maar de eerste voortekenen zijn dan al zichtbaar, zoals Schmidt als geen ander weet. Tot maart 2015 is hij immers verantwoordelijk voor de relatie tussen Volkswagen en de machtige Amerikaanse

milieuautoriteiten. Als begin 2014 uit een onderzoek van de West Virginia University blijkt dat de dieselmotoren van Volkswagen meer vervuilen dan blijkt uit de testen, is hij een van de eersten die de resultaten onder ogen krijgt.

Per direct brengt Schmidt zijn collega's van deze studie op de hoogte. 'Wij moeten eerst beslissen of we eerlijk zijn geweest', schrijft Schmidt in een e-mail. 'Zo niet, dan blijft alles zoals het is.' Op die manier vraagt Schmidt zich volgens de Amerikaanse pers af of Volkswagen de gemaakte fouten moet toegeven of niet.

Afschuiven

Ondanks deze e-mail heeft Schmidt net als andere hooggeplaatste medewerkers van Volkswagen altijd beweerd pas tijdens een vergadering in september 2015 op de hoogte te zijn gebracht. Volgens de Amerikaanse justitie heeft hij op die manier geprobeerd de autoriteiten een rad voor ogen te draaien en de verantwoordelijkheid af te schuiven naar lagere niveaus in het bedrijf.

Afgelopen zaterdag werd Schmidt door de FBI gearresteerd op het vliegveld van Miami waar hij een na een bezoek aan vrienden een vlucht terug naar Duitsland wilde nemen. Daarmee is Schmidt na ingenieur James Robert Liang de tweede medewerker van Volkswagen die naar aanleiding van het schandaal is gearresteerd.

Handboeien

Maandag werd Schmidt verhoord door justitie en donderdag staat er een tweede verhoor op stapel. Tijdens zijn eerste verhoor droeg Oliver Schmidt volgens persbureau Reuters zowel handboeien als gevangenskleding. Na de verhoren wordt Schmidt waarschijnlijk afgevoerd naar Detroit omdat in die stad de eerste aanklacht tegen hem is ingediend.

Oliver Schmidt is opgeleid tot ingenieur en werkt sinds 1997 bij Volkswagen. In 2013 verhuist hij naar de Verenigde Staten waar hij de leiding krijgt over de Amerikaanse milieuafdeling van Volkswagen in Auburn Hills, een stadje met ruim 20.000 inwoners in Michigan. In maart 2015 keert Schmidt terug naar het moederbedrijf in het Duitse Wolfsburg en gaat hij daar aan de slag bij de afdeling die motoren voor treinen bouwt. Maar als het schandaal over de sjoemelsoftware aanhoudt, wordt hem verzocht het wereldwijde aanspreekpunten voor de milieuautoriteiten te worden.

Weinig gelachen

In die functie reist Schmidt naar Groot-Brittannië waar hij op 25 januari 2016 in het Britse parlement de kwestie zoveel mogelijk bagatelliseert. Hij verklaart bijvoorbeeld dat de software die

Risico

Hij waarschuwde collega's niet af te reizen naar de VS

Studie

Hij wist begin 2014 al dat de VW-diesels meer vervuilen dan uit de testen blijkt

testsituaties moest herkennen nauwelijks invloed had. 'Na alle ophef hebben we de software natuurlijk vervangen', aldus Schmidt tijdens zijn getuigenis, 'maar voor de gemeten uitstoot van stikstof- en koolstofdioxide maakt dat nauwelijks uit.' Met andere woorden, Volkswagen heeft misschien foutjes gemaakt, maar Schmidt ziet geen enkele reden om het bedrijf daarmee te blijven achtervolgen.

In de buitenwereld sprak Schmidt sussende woorden, maar intern trof hij al voorbereidingen voor het ergste scenario. Zo liet hij zijn collega's weten dat het in verband met een eventuele arrestatie erg onverstandig was af te reizen naar de Verenigde Staten. Toch besloot hij zelf wel te gaan, een besluit dat hij inmiddels ongetwijfeld zal betreuren. Afgelopen maandag werd er in de rechtbank van Miami in ieder geval weinig gelachen.



Oliver Schmidt (Foto: Reuters)



Het complete verhaal

Ingenieur van Volkswagen is het lachen vergaan

'VS-aanklagers hebben hoge Volkswagenbestuurders in het vizier' >

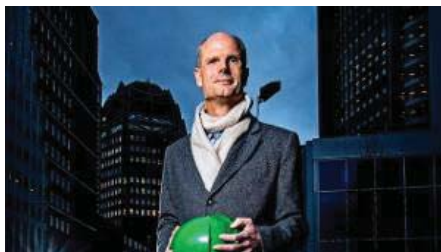


Door Frits Conijn >

Meest gelezen



Streng Rotterdamse aanpak bijstand wint het van Amsterdam



Eindelijk beweging op de woningmarkt



Fiscus mag leaserijder niet controleren met camerabeelden



This photo provided by the Broward County Sheriff's Office shows Oliver Schmidt under arrest on Jan. 7, 2017. Schmidt, the general manager of the engineering and environmental office for Volkswagen America, was arrested in connection with the company's emissions-cheating scandal. He has an appearance in Miami Federal Court, Monday, Jan. 9, 2017. (Broward County Sheriff's Office via AP)

01.09.2017



<http://www.vancouversun.com/This+photo+provided+Broward+County+Sheriff+Office+shows+Oliver+Schmidt+under+arrest+2017+Schmidt+general+manager+engineering+environmental+office+Volkswagen+America+arrested+connection+with+company+emissions+cheating+scandal+appearance/12670759/story.html>



U.S. judge orders Volkswagen executive detained

Thu Jan 12, 2017 4:27pm EST



MIAMI/NEW YORK (Reuters) - A U.S. judge on Thursday ordered a Volkswagen executive charged in the Justice Department's diesel emissions investigation held without bail pending trial.

Oliver Schmidt was arrested Saturday at Miami's International Airport as he planned to fly home after a vacation. He was one of six current and former VW executives charged this week in U.S. District Court in Detroit. The other five are in Germany and are unlikely to be extradited.

U.S. Magistrate Judge William Turnoff ruled Schmidt was a flight risk. His lawyers said they planned to appeal the decision.

The Justice Department also said Schmidt "faces what would be an effective life sentence" if convicted. Schmidt is charged with eleven felony counts, which could be punished by up to 169 years in prison, the government said.

Volkswagen AG (VOWG_p.DE: [Quote](#)) agreed to plead guilty and pay \$4.3 billion in civil and criminal fines.

(Reporting by Zachary Fagenson in Miami and David Shepardson in New York; Editing by Nick Zieminski)

FINANCIAL TIMES

Volkswagen executive denied bail over emissions scandal

Oliver Schmidt was arrested in Miami just days before carmaker agreed a \$4.3bn fine



Oliver Schmidt © EPA

JANUARY 12, 2017 by: Patti Waldmeir in Chicago and Patrick McGee in Frankfurt

A federal judge on Thursday denied bail to a Volkswagen executive who took an ill-timed vacation to Florida and was arrested only days before the company agreed to pay a \$4.3bn criminal fine to the US government.

Oliver Schmidt, the group's former US head of compliance, was one of six Volkswagen executives charged on Wednesday in the company's emissions-cheating scandal. He will remain in custody in Miami without bond ahead of being transported to Michigan, where his trial will take place.

Federal prosecutors told Judge William C Turnoff that if he were released from custody, they feared he would return to Germany, where the other five executives remain because German law does not allow their extradition. Mr Schmidt's lawyer, David Massey, told the US district court for the Southern District of Florida that Mr Schmidt had been voluntarily assisting the US government in its investigation and did not realise until late in the day that he could be facing charges.

He had reached out to the Federal Bureau of Investigation voluntarily, without counsel, and flew to London to speak with authorities "at great length". In November and again in mid-December, his lawyers had established that he was a subject of the investigation, but not a target. But "something happened", his lawyer said, between December 16 and December 30 "that caused him to move straight through the target category and to be arrested". But prosecutor Benjamin Singer countered that "Mr Schmidt, when he met with us, lied to us".

"He said he was not guilty of any of the offences. He did not know about it. There's lots of proof, including documentary proof that we can offer Your Honour that shows . . . [he] clearly knew [VW employees] were lying to the regulators," said Mr Singer, chief of the Department of Justice's securities and financial fraud unit.

Mr Schmidt's lawyer argued that he should not be considered a flight risk because he has significant ties to Florida, including property and cash which he could post as bail. But the prosecutor countered: "The simple fact is that Mr Schmidt has every reason in the world to go back to Germany under these circumstances and if he goes back he's never coming back."

The hearing had its light moments. Judge Turnoff told US marshals, who had taken away Mr Schmidt's glasses, to give them back, but instructed them to "make sure there is no gun in it or anything". Then he quipped: "It is German technology. We have to check out these glasses."

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VW executive charged with fraud in connection to emissions cheating

Oliver Schmidt, Volkswagen's former US head of compliance, would have been in charge of the company's adherence to emissions regulations during the scandal



Oliver Schmidt served as VW's US head of compliance. Photograph: Joe Wilssens Handout/EPA

Sam Thielman and agency

Monday 9 January 2017 12.50 EST

A Volkswagen executive was charged on Monday with conspiracy to defraud the United States in the latest chapter of the long-running scandal over the company's deliberate cheating on emissions tests.

Oliver Schmidt, who was general manager in charge of VW's environmental and engineering office in Michigan, did not enter a plea at an initial appearance in US district court in Miami on Monday and was ordered held pending a hearing on Thursday.

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Schmidt, who was shackled and wearing a jail uniform, was charged with fraud and conspiracy in not disclosing a cheating device used to rig US diesel emissions tests from 2006 through 2015.

As VW's former head of compliance in the US from 2014 until March 2015, Schmidt would have been in charge of the company's adherence to emissions regulations during the scandal, though not at its beginning.

He was arrested by FBI agents in Florida on Saturday after attempting to return to Germany from a vacation there, the justice department said. News of the arrest was first reported by the New York Times.

The arrest and court appearance come as VW nears a \$3bn plus - and potentially \$4bn - settlement with the justice department and Environmental Protection Agency to resolve civil and criminal investigations into the diesel scandal. Talks are still under way about some details of the settlements and no deal has been reached, sources said.

A Volkswagen spokesman, Mario Guerreiro, said the company "continues to cooperate with the Department of Justice as we work to resolve remaining matters in the United States".

Individuals affected the world over have filed class-action suits against the company since the scandal was first made public, most recently in the UK on Monday.

In September 2015 the company admitted to installing "defeat devices" on its diesel-powered vehicles, which caused them to emit lower levels of the greenhouse gas nitrous oxide during testing. The following June, VW settled with the US federal trade commission and environmental protection agency in addition to agreeing to buy back cars from consumers for a total cost estimated at \$15.3bn.

Schmidt is the second person to be arrested in conjunction with the emissions cheating; in October Volkswagen engineer James Robert Liang pleaded guilty on one count of conspiracy to defraud the government.

The emissions cheating was first discovered by a small research center at West Virginia University called the Center for Alternative Fuels, Engines and Emissions (Cafee). In 2013, the center

received a \$70,000 grant to study emissions and set about determining why all auto emissions were not as efficient as Volkswagen's.

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Second VW employee arrested over emissions scheme

AP | **Published** — Wednesday 11 January 2017



A Broward County Sheriff's Office handout photo shows Oliver Schmidt under arrest on Jan. 7, 2017. (AP)

DETROIT: The Volkswagen executive who once was in charge of complying with US emissions regulations was arrested during the weekend in Florida and accused of deceiving federal regulators about the use of special software that cheated on emissions tests.

Oliver Schmidt, who was general manager of the engineering and environmental office for VW of America, was charged in a criminal complaint with conspiracy to defraud the US government, to commit wire fraud and to violate the Clean Air Act.

Schmidt, 48, a resident of Germany, is the second VW employee to be arrested as part of an ongoing federal investigation into VW, which has admitted that it programmed diesel-powered vehicles to turn pollution controls on during tests and to turn them off in real-world driving. The

scandal has cost VW sales and has tarnished its brand worldwide.

He was arrested during the weekend in Florida and faces an initial hearing in Miami Monday afternoon. After that he likely will be taken to Detroit, where the Justice Department investigation is based, to face arraignment at a later date. It was not immediately clear if he had a lawyer.

The complaint, dated Dec. 30, says Schmidt in 2015 misled regulators who asked why Volkswagen vehicles emitted higher emissions on the road than during tests. Schmidt “offered reasons for the discrepancy” other than the fact that the company was cheating on emissions tests through illegally installed software on its diesel vehicles, according to court documents.

The complaint says Schmidt and other VW executives conspired to violate the Clean Air Act by making false representations about the environmental quality of their cars.

Tests commissioned by the nonprofit International Council on Clean Transportation in 2014 found that certain Volkswagen models with diesel engines emitted more than the allowable limit of pollutants. More than a year later, Volkswagen admitted to installing the software on about 500,000 2-liter diesel engines in VW and Audi models in the US. Later the company said some 3-liter diesels also cheated.

After that study, Schmidt, in an apparent reference to VW’s compliance with emissions, wrote a colleague to say: “It should first be decided whether we are honest. If we are not honest, everything stays as it is.”

He later e-mailed another executive with an analysis that listed possible monetary penalties from the Environmental Protection Agency.

“Difference between street and test stand must be explained. (Intent=penalty),” Schmidt wrote, according to the complaint.

Schmidt’s bio for a 2012 auto industry conference said he was responsible for ensuring that vehicles built for sale within the US and Canada comply with “past, present and future air quality and fuel economy government standards in both countries.” It says he served as the company’s direct factory and government agency contact for emissions regulations. The criminal complaint says Schmidt was promoted in 2015 as a principal deputy of a senior manager.

Volkswagen said in a statement Monday that it is cooperating with the Justice Department in the probe. “It would not be appropriate to comment on any ongoing investigations or to discuss personnel matters,” the statement said.

Herbert Diess, a member of Volkswagen AG’s board of management, appeared in Detroit Sunday evening to introduce a new version of VW’s Tiguan SUV ahead of the North American International Auto Show. He wouldn’t comment when asked if some Volkswagen executives refused to come to the auto show for fear of being arrested.

“I’m here, at least,” he said.

Asked about the Justice Department investigation, Diess also wouldn’t comment, but said he hopes it’s resolved “as soon as possible.”

The company has agreed to either repair the cars or buy them back as part of a \$15 billion settlement approved by a federal judge in October. Volkswagen agreed to pay owners of 2-liter diesels up to \$10,000 depending on the age of their cars.

In October, VW engineer James Robert Liang, of Newbury Park, California, pleaded guilty to one count of conspiracy to defraud the government and agreed to cooperate with investigations in the US and Germany. Liang was the first person to enter a plea in the wide-ranging case, and authorities were expected to use him to go after higher-ranking VW officials.

A grand jury indictment against Liang detailed a 10-year conspiracy by Volkswagen employees in the US and Germany to repeatedly dupe US regulators by using sophisticated emissions software. The indictment detailed e-mails between Liang and co-workers that initially admitted to cheating in an almost cavalier manner but then turned desperate after the deception was uncovered.

The complaint against Schmidt also references two cooperating witnesses in the company’s engine development, who have agreed to speak with investigators in exchange for not being prosecuted.

The EPA found that the 2-liter cars emitted up to 40 times the legal limit for nitrogen oxide, which can cause human respiratory problems.

THE AUSTRALIAN

Arrest shines new light on Volkswagen emissions deception



Mr Schmidt became directly involved in the cover-up in the summer of 2015. Picture: AFP/ Saul Loeb.

WILLIAM BOSTON, ARIAN CAMPO-FLORES THE AUSTRALIAN 2:08PM January 10, 2017

A Volkswagen AG executive was arrested and charged as part of a US investigation into the German auto giant's emissions-cheating scandal, with a federal complaint detailing how the company's top management conspired to hide the cheating from regulators.

Oliver Schmidt, who was once in charge of ensuring that Volkswagen vehicles complied with US emissions, was arrested by Federal Bureau of Investigation agents on Saturday at Miami International Airport as he prepared to fly home to Germany. He is suspected of conspiring to defraud the US government and US consumers to sell Volkswagen diesel vehicles.

In one of the most dramatic scenes to unfold since Volkswagen admitted in September 2015 to installing illegal software on millions of its vehicles to cheat emissions test, the portly executive stood forlorn-looking before a US magistrate in Florida on Monday in handcuffs, shackles and a tan jumpsuit.



Oliver Schmidt under arrest. Picture: Broward County Sheriff's Office via AP.

He was denied bail pending a Thursday court appearance for fear he could flee to Germany.

"And if he goes back, he's never coming back," Benjamin Singer, a Justice Department lawyer, told the court. Mr Singer said an lawyer for Mr Schmidt had alerted government lawyers that the executive would be in Florida for vacation.

The case against Mr Schmidt shines new light on how Volkswagen managers, who knew the company had rigged diesel-powered cars to cheat on emissions tests for almost a decade, in 2014 orchestrated a cover-up that involved dozens of employees, from ordinary engineers to the company's top ranks.

The charges, unsealed on Monday, come as Volkswagen seeks to settle criminal allegations stemming from its admission in 2015 that it rigged nearly 600,000 diesel-powered cars sold in the US to cheat on emissions tests. Volkswagen has agreed to pay up to \$17.5 billion in the US to settle claims with regulators, consumers, dealers and state attorneys general and could face another multibillion-dollar penalty in the expected criminal case.

Mr Schmidt appears to have become a central figure in the US government's investigation as someone who allegedly played a key role in the company's efforts to conceal its use of illegal software, a so-called defeat device, in diesel vehicles sold in the US.

The government's case against Mr Schmidt centres on the period from April 2014 through the summer of 2015, when as an executive in the US and then in Germany he allegedly helped orchestrate steps to mislead US authorities after evidence of Volkswagen's diesel fraud emerged.

While serving as head of Volkswagen's Environment and Engineering Office in Michigan, in April 2014, Mr Schmidt learned of a report from the International Council for Clean Transportation and West Virginia University that showed two Volkswagen diesel vehicles produced higher levels of toxic nitrogen oxide during normal road use than on treadmill tests in the laboratory.

The FBI complaint alleges that Mr Schmidt already knew at the time about Volkswagen's use of illegal software and cites an email that he wrote about how the company should respond to the ICCT study, laying out a choice between lying and truthfulness.

"It should first be decided whether we are honest. If we are not honest, everything stays as it is," he wrote in an email to fellow Volkswagen managers, according to the federal complaint against him.



Volkswagen has agreed to pay up to \$17.5bn in the US to settle claims. Picture: Saul Loeb/AP.

Evidence against Mr Schmidt includes testimony from two confidential witnesses, employees in Volkswagen's engine-development group, and James Robert Liang, a Volkswagen engineer who pleaded guilty to conspiracy linked to the diesel scam in September. The FBI's witnesses agreed to provide testimony to avoid prosecution in the US, according to the court filing.

Mr Liang was involved in the diesel fraud from the early days. After nearly getting caught in 2013, Volkswagen engineers updated the illicit software. In September 2013, Mr Liang wrote an email to a colleague, explaining the new update. The colleague replied that the "test sequence sound[ed] exciting," adding: "If this goes through without problems, the function is probably truly watertight!"

According to testimony from Mr Liang and confidential witnesses, the FBI complaint says, engineers in Volkswagen's engine-development group formed an "ad hoc task force" to formulate responses that aimed to prevent US environment authorities from discovering the defeat device and still appear to be cooperative.

Mr Schmidt became directly involved in the cover-up in the summer of 2015, when it was increasingly difficult for Volkswagen to conceal the defeat device and engineers involved in the scheme were beginning to panic. In one email in June 2015, cited in the government's indictment of Mr Liang, a Volkswagen employee stressed the need to keep US authorities from testing the company's earliest, or Gen 1, diesel vehicles: "If the Gen 1 goes onto the roller at the CARB, then we'll have nothing to laugh about." CARB refers to the California Air Resources Board.

Michael Horn, a former CEO of Volkswagen Group of America, testified in a congressional subcommittee on October 8, 2015, that he was told by US employees in July of that year that federal and California environmental regulators wouldn't certify the company's 2016 vehicles because of the "emissions issue." Mr Horn said he alerted Volkswagen management at company headquarters in Wolfsburg, Germany.

According to the complaint, Mr Schmidt then played a key role in preparing a meeting in Wolfsburg — internally known as the "damage conference" -- at which Volkswagen executives discussed the defeat devices, the consequences for the company and the decision to continue misleading US authorities.

A slide prepared by Mr Schmidt and others described possible scenarios, according to the complaint: "If the outcome was 'negative for VW' and there was 'no explanation for'" the issues, "there could be an 'Indictment?'" "the slide read.

Mr Schmidt and other Volkswagen employees informed attendees that "US regulators were not aware of the defeat device," the complaint said. "Rather than advocate for disclosure of the defeat device to US regulators, VW executive management authorised its continued concealment."

Aruna Viswanatha and Mike Spector contributed to this article.

Wall Street Journal



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BUSINESS NEWS | Mon Jan 9, 2017 | 5:35pm EST

U.S. charges Volkswagen executive with fraud over emissions scandal



Volkswagen executive Oliver Schmidt, charged with conspiracy to defraud the United States over the company's diesel emissions scandal is shown in this booking photo in Fort Lauderdale, Florida, U.S., provided January 9, 2017. Courtesy of Broward County Sheriff's Office/Handout via REUTERS



Friends and family of Volkswagen executive Oliver Schmidt, who was arrested on charges of conspiracy to defraud the United States in connection with the automaker's emissions cheating scandal, walk from Federal court in Miami, Florida, U.S., January 9, 2017.

By Zachary Fagenson and David Shepardson | MIAMI/DETROIT

Volkswagen AG (VOWG p.DE) suffered a new setback on Monday when an executive was charged with conspiracy to defraud the United States over the company's diesel emissions cheating and the automaker was accused of concealing the cheating from regulators.

Oliver Schmidt, who was general manager in charge of VW's environmental and engineering office in Michigan, did not enter a plea at an initial appearance in U.S. District Court in Miami on Monday and was ordered held pending a hearing on Thursday by U.S. Magistrate Judge William C. Turnoff.

Schmidt, who was shackled and wearing a jail uniform, was charged with fraud and conspiracy in not disclosing a cheating device used to rig U.S. diesel emissions tests from 2006 through 2015.

He was arrested on Saturday in Florida after attempting to return to Germany from a vacation there, the Justice Department said. Schmidt's lawyer David Massey said Schmidt had learned of the investigation and reached out to the U.S. Federal Bureau of Investigation to offer to cooperate. Schmidt then met with FBI agents in London last year, he said.

The arrest was first reported by the New York Times.

The arrest and court appearance come as VW nears a \$3 billion plus - and potentially \$4 billion - settlement with the Justice Department and Environmental Protection Agency to resolve civil and criminal investigations into the diesel scandal, which sources have told Reuters could be announced as soon as Wednesday. Talks are still under way about some details of the settlements and no deal has been reached, sources said.

An FBI complaint unsealed on Monday against Schmidt said he and other VW employees told executive management about the "existence, purpose and characteristics" of an emissions cheating device in July 2015, and that the executives chose not to immediately disclose it to U.S. regulators.

The FBI complaint accused VW of deliberately misleading regulators about cheating pollution tests in the United States, but did not charge the company with a crime.

Schmidt and other employees gave a presentation about the "defeat device" on or about July 27, 2015, more than a month before the automaker disclosed the device to U.S. regulators in September 2015, the complaint said.

The cheating allowed nearly 580,000 of VW's U.S. diesel vehicles sold since 2009 to emit up to 40 times legally allowable pollution levels.

"In the presentation, VW employees assured VW executive management that U.S. regulators were not aware of the defeat device," the complaint said. "Rather than advocate for disclosure of the defeat device to U.S. regulators, VW executive management authorized its continued concealment."

One slide in the presentation included "Indictment?" if regulators did not approve its diesel software for 2016 models, according to the complaint. The complaint said that in 2006 VW employees realized they would not be able to meet U.S. diesel emissions standard and decided to create cheating software.

Volkswagen said it could not comment on an ongoing legal matter. Hinrich Woebcken, VW's chief executive of the North America region, told reporters at the Detroit auto show on Monday that the automaker was "surprised" by the criminal charge.

A U.S. VW employee, James Liang, was charged in September and pleaded guilty to misleading regulators about diesel emissions and agreed to cooperate with the investigation. His sentencing was delayed last week as prosecutors consider charging others, a court filing said.

LATEST SETBACK

The news comes as VW is trying to convince Americans it has changed its ways. The world's second-largest automaker emphasized its focus on the U.S. market as it rolled out two new sport utility vehicles at the Detroit auto show, including a new longer Tiguan SUV with more cargo space and a larger all-new Atlas SUV that will be built in Tennessee.

"We intend to take that second chance," Woebcken told reporters who joined VW in January 2016. "We are on a good path to get things straight" and added that VW is a "good corporate citizen."

He said VW employs 600,000 people worldwide and they "are honest people" and that it was "unfortunate that a small group of people generated this disappointment."

Much of the company's senior management departed following the scandal, including CEO Martin Winterkorn.

But the allegations in the FBI filing show how difficult it is proving for VW to draw a line under the biggest business scandal in its 80-year history almost 16 months after it broke.

On Monday, however, VW shares rose 4.2 percent to their highest since September 2015 on optimism about the expected U.S. criminal settlement, topping the German blue-chip DAX index .GDAXI. The shares are still 10 percent below pre-scandal levels.

VW admitted in September 2015 to installing the secret defeat device software in hundreds of thousands of U.S. diesel cars to cheat exhaust emissions tests and make them appear cleaner than they were on the road, and that up to around 11 million vehicles could have similar software installed worldwide.

The automaker initially blamed a small group of "rogue engineers" for the test-cheating, and has repeatedly said no current or former board members were involved.

The ensuing scandal has cost the company more than \$18.9 billion in provisions and forced it to drop its diesel offensive in the United States. VW's global brand chief Herbert Diess told reporters on Sunday the company has no plans to ever resume U.S. diesel sales.

VW has already agreed to spend up to \$17.5 billion in the United States to address claims from regulators, dealers, and owners.

Separately on Monday, a British law firm launched legal action against VW seeking thousands of pounds of compensation each for UK drivers affected by the emissions scandal.

In Britain, 1.2 million cars are affected and Marcus Sinclair UK, which is being supported by Slater and Gordon, said around 10,000 drivers had already signed up to the legal action before the launch.

(Additional reporting by Jan Schwartz in Detroit and Ilona Wissenbach in Frankfurt; Editing by Joe White, Mark Potter, Meredith Mazzilli and Bernard Orr)

The New York Times

Volkswagen Executive's Trip to U.S. Allowed F.B.I. to Pounce

By JACK EWING, ADAM GOLDMAN and HIROKO TABUCHI JAN. 9, 2017



Oliver Schmidt in 2014. Formerly Volkswagen's top emissions compliance executive in the U.S., he has been charged with defrauding the government and violating the Clean Air Act.CreditJoe Wilssens/European Pressphoto Agency

When F.B.I. agents learned that a prime suspect in the [Volkswagen](#) emissions scandal was traveling to the United States, investigators knew they were on the cusp of a rare feat: the arrest of an overseas corporate executive accused of wrongdoing.

On Saturday night, agents swooped in to arrest the Volkswagen executive, Oliver Schmidt, as he prepared to depart Miami International Airport for Germany, according to two law enforcement officials familiar with the case, one of whom described the circumstances of the arrest. The officials spoke on the condition of anonymity because they were not authorized to speak publicly about the case.

Mr. Schmidt, formerly Volkswagen's top emissions compliance executive in the United States, has been charged with defrauding the government and violating the [Clean Air Act](#). He made an initial appearance on Monday in federal court in Miami. He will be moved to Detroit, where he was originally charged and where court documents suggest that he might be valuable in the government's investigation into other Volkswagen officials.

Mr. Schmidt, 48, played a central role in Volkswagen's cover-up of its diesel emissions cheating, according to an affidavit from an F.B.I. agent that was unsealed on Monday. Even as the company obfuscated details of its cheating program from regulators, Mr. Schmidt warned executives in Germany that the company could face criminal charges for its actions, the affidavit says.

The case against Mr. Schmidt sheds new doubt on Volkswagen's assertions that top executives did not understand the full scale of the wrongdoing until early in September 2015, more than a year after questions were first raised about emissions from its vehicles. Mr. Schmidt briefed executives in detail months earlier, in July, according to the criminal complaint, filed in federal court in Michigan. The timeline of the briefing has not been laid out before by prosecutors.

The complaint also says that other employees were involved in a cover-up, suggesting that more charges could be coming. It is unclear which employees — above or below Mr. Schmidt — the government believes were involved. Mr. Schmidt reported to high-ranking officials at Volkswagen headquarters in Wolfsburg.

Volkswagen is nearing [a deal](#) with the Justice Department to pay more than \$2 billion to resolve the criminal investigation into the emissions cheating, according to three people briefed on the negotiations. The company or one of its corporate entities is expected to plead guilty as part of the deal, according to one of the people.

That deal, though, would not prevent charges against individual employees. Volkswagen's emissions scandal has cost the company \$16 billion in civil settlements in the United States alone.

The fallout from the scandal has already reached Volkswagen's executive ranks. The automaker's chief executive, Martin Winterkorn, [resigned in September](#), several days after American regulators publicly accused the company of manipulating testing results. German prosecutors are now [investigating](#) Mr. Winterkorn and another executive, Hans Dieter Pötsch, about whether they violated securities laws.

For United States investigators, the arrest of Mr. Schmidt is a stroke of luck. Their attempts to prosecute people suspected of being responsible for the scandal have been hampered because many of the people are in Germany, which does not normally extradite its citizens.

Mr. Schmidt's lawyer, David Massey, said in court that his client had learned of the investigation and contacted the F.B.I. to cooperate. He met with federal investigators in London in 2015, Mr. Massey said.

Reached by phone, Mr. Massey declined to comment further, leaving unclear what came of the outreach to the government.

Volkswagen declined to comment.

Why Mr. Schmidt risked arrest by traveling in the United States remains a mystery. He is fluent in English and has extensive ties in the United States from his years working in the country for Volkswagen.

A Volkswagen employee since 1997, Mr. Schmidt was named general manager of Volkswagen's Engineering and Environmental Office in Auburn Hills, Mich., in 2013. In that job, he was responsible for managing relations with the Environmental Protection Agency and the powerful California Air Resources Board, the regulatory agencies that initially pursued the emissions cheating case.

Mr. Schmidt was among the first to react in early 2014 when a study by West Virginia University found evidence that Volkswagen diesel cars polluted far more under normal driving conditions than they did in official testing labs.

In an email to a colleague in April 2014, he wrote, "It should first be decided whether we are honest," according to an affidavit signed by Ian Dinsmore, an F.B.I. special agent. The affidavit was the basis for a criminal complaint against Mr. Schmidt.

Volkswagen decided to mask its emissions cheating from regulators, according to the complaint and lawsuits filed by the New York attorney general's office. To buy time, the company recalled Volkswagens in the United States for an update of the engine software in early 2015, even though Mr. Schmidt and others knew that change would not bring the cars into compliance, according to the complaint.



Mr. Schmidt was arrested on Saturday night by F.B.I. agents before departing Miami for Germany.CreditBroward Sheriff's Office, via Getty Images

In March, Mr. Schmidt was promoted to a new position in Wolfsburg. As he moved up, he continued to play a crucial role in Volkswagen's relations with regulators.

In July, he briefed high-ranking executives on the risks that Volkswagen faced. According to the complaint, Mr. Schmidt and other Volkswagen employees briefed top managers in Wolfsburg ahead of a meeting with officials at the California regulatory agency, also known as CARB, which took the lead in the investigation.

Mr. Schmidt explained that the cars contained software that recognized when a vehicle was undergoing tests. The so-called defeat device increased pollution controls so the cars would pass muster. Mr. Schmidt also told the executives that if the meeting with regulators did not go well, the company could face criminal charges, according to the complaint.

The high-ranking executives decided not to disclose the defeat device, according to the complaint. The complaint did not say which executives Mr. Schmidt briefed.

The account runs counter to the timeline Volkswagen has detailed. The company has maintained in court documents that top managers did not learn of the wrongdoing until early September 2015.

The cover-up continued into August, according to the complaint. While attending an industry conference, Mr. Schmidt presented a thick binder of technical information to a high-ranking California regulator. But when agency experts scrutinized the data, they found that it made no sense, Alberto Ayala, the board's deputy executive officer, said in an interview last year.

Having run out of excuses for the emissions discrepancies, Mr. Schmidt and other Volkswagen managers met with CARB and E.P.A. officials in September and admitted the presence of a defeat device. By then, Mr. Schmidt and his colleagues had squandered the credit that companies usually get for cooperating with investigators.

Nevertheless, Mr. Schmidt continued to represent Volkswagen publicly through early 2016, continuing to play down what the company had done. In January, he testified before the British Parliament as part of an inquiry into the emissions testing.

Mr. Schmidt told the members of Parliament that Volkswagen had removed software that recognized when an emissions test was underway. But the software was nothing nefarious, he said.

"This software is not defined as a defeat device in Europe," he said.

Susan C. Beachy contributed research.

A version of this article appears in print on January 10, 2017, on Page B1 of the New York edition with the headline: VW Executive's Trip Let F.B.I. Pounce. Order Reprints| Today's Paper|Subscribe

AUTOWEEK



Oliver Schmidt was reportedly taken into custody by the FBI in Florida on Saturday, January 7, and is due to appear in federal court in Michigan on Monday, January 9.

VW exec arrested by FBI in diesel investigation, report says

OLIVER SCHMIDT LED VOLKSWAGEN'S U.S. COMPLIANCE OFFICE

January 9, 2017

The FBI has arrested a VW executive in connection with the [diesel scandal](#), [Reuters](#) reports. The agency took Oliver Schmidt, who helmed the regulatory compliance office of the automaker in the U.S., into custody on Saturday, Jan. 7, alleging charges of conspiracy to defraud the U.S. in connection to the automaker's actions in the [diesel matter](#). Schmidt, who was the head of VW's regulatory office from 2014 through March 2016, is scheduled to appear in a federal court on Monday.

While the timing of the arrest came as a surprise to other VW executives -- on the eve of the [Detroit auto show](#) where Volkswagen is continuing to try to move past the diesel scandal [by unveiling an electric concept car](#) -- charges for one or more VW executives in the U.S. [were expected before a new presidential administration](#) took office.

It was reported last month that the [Department of Justice was moving closer to filing charges](#) against VW executives in the U.S., most likely in the form of wire fraud and making false statement to U.S. regulatory agencies. Such charges are common in instances when foreign companies have misrepresented aspects of products; charges concerning communications are a common way federal prosecutors structure cases against executives under U.S. federal jurisdiction. Several weeks ago, it was also reported that [dozens of VW executives have retained criminal defense lawyers](#) in the U.S. following interviews by Department of Justice staff in the U.S. and in Germany.

Last week, VW announced current [VW CEO Matthias Mueller](#) would not attend the Detroit auto show this week. The unusual absence is seen as a move to limit reporters' questions to [Mueller](#) about the Department of Justice diesel probe and the potential compensation to owners of [3.0-liter VW, Audi and Porsche vehicles](#).

Reuters reports the court filing alleges the VW management board was made aware of the "existence, purpose and characteristics" of the so-called defeat devices in 2.0-liter diesel vehicles sold under the VW and Audi brands in the U.S. and did not share this information with U.S. regulators. The complaint reportedly singles out a date of July 27, 2015 when Schmidt and other VW staff gave a presentation to members of the Volkswagen's executive management about the defeat devices, which included an assurance that U.S. regulators did not know about the devices.

"Rather than advocate for disclosure of the defeat device to U.S. regulators, VW executive management authorized its continued concealment," the complaint states, according to Reuters.

Volkswagen, in its published timeline of the diesel scandal, admitted top management had been made aware of the emissions-cheating software in July 2015 and had expected monetary penalties deemed to top out at \$100 million, based on precedent. A couple of months following the meeting cited in the complaint, the EPA revealed the existence of the so-called defeat devices to the public, and the Department of Justice subsequently launched a criminal probe into the matter.



FBI Arrests Volkswagen Executive in Emissions Scandal

VW executive Oliver Schmidt is suspected of participating in a conspiracy to defraud the U.S. in connection with the emissions-cheating scandal



A Volkswagen Touareg diesel is tested in the Environmental Protection Agency's cold temperature test facility in Ann Arbor, Mich. PHOTO: CARLOS OSORIO/ASSOCIATED PRESS
By WILLIAM BOSTON in Berlin, ARIAN CAMPO-FLORES in Miami and ARUNA VISWANATHA in Washington

Updated Jan. 9, 2017 7:19 p.m. ET

A [Volkswagen](#) AG executive was arrested and charged as part of a U.S. investigation into the German auto giant's emissions-cheating scandal, with a federal complaint detailing how the company's top management conspired to hide the cheating from regulators.

Oliver Schmidt, who was once in charge of ensuring that Volkswagen vehicles complied with U.S. emissions, was arrested by Federal Bureau of Investigation agents on Saturday at Miami International Airport as he prepared to fly home to Germany. He is suspected of conspiring to defraud the U.S. government and U.S. consumers to sell Volkswagen diesel vehicles.

In one of the most dramatic scenes to unfold since Volkswagen admitted in September 2015 to installing illegal software on millions of its vehicles to cheat emissions test, the portly executive stood forlorn-looking before a U.S. magistrate in Florida on Monday in handcuffs, shackles and a tan jumpsuit.

He was denied bail pending a Thursday court appearance for fear he could flee to Germany.

"And if he goes back, he's never coming back," Benjamin Singer, a Justice Department lawyer, told the court. Mr. Singer said an attorney for Mr. Schmidt had alerted government lawyers that the executive would be in Florida for vacation.



Volkswagen executive Oliver Schmidt is shown in this booking photo, provided by the Broward County Sheriff's Office on Monday. He appears to have become a central figure in the U.S. government's investigation. *PHOTO: HANDOUT/REUTERS*

The case against Mr. Schmidt shines new light on how Volkswagen managers, who knew the company had rigged diesel-powered cars to cheat on emissions tests for almost a decade, in 2014 orchestrated a coverup that involved dozens of employees, from ordinary engineers to the company's top ranks.

The charges, unsealed Monday, come as Volkswagen seeks to settle criminal allegations stemming from its admission in 2015 that it rigged nearly 600,000 diesel-powered cars sold in the U.S. to cheat on emissions tests. Volkswagen has agreed to pay up to \$17.5 billion in the U.S. to settle claims with regulators, consumers, dealers and state attorneys general and could face another multibillion-dollar penalty in the expected criminal case.

Mr. Schmidt appears to have become a central figure in the U.S. government's investigation as someone who allegedly played a key role in the company's efforts to conceal its use of illegal software, a so-called defeat device, in diesel vehicles sold in the U.S.

The government's case against Mr. Schmidt centers on the period from April 2014 through the summer of 2015, when as an executive in the U.S. and then in Germany he allegedly helped orchestrate steps to mislead U.S. authorities after evidence of Volkswagen's diesel fraud emerged.

While serving as head of Volkswagen's Environment and Engineering Office in Auburn Hills, Mich., in April 2014, Mr. Schmidt learned of a report from the International Council for Clean

Transportation and West Virginia University that showed two Volkswagen diesel vehicles produced higher levels of toxic nitrogen oxide during normal road use than on treadmill tests in the laboratory.

The FBI complaint alleges that Mr. Schmidt already knew at the time about Volkswagen's use of illegal software and cites an email that he wrote about how the company should respond to the ICCT study, laying out a choice between lying and truthfulness.

"It should first be decided whether we are honest. If we are not honest, everything stays as it is," he wrote in an email to fellow Volkswagen managers, according to the federal complaint against him.

Evidence against Mr. Schmidt includes testimony from two confidential witnesses, employees in Volkswagen's engine-development group, and James Robert Liang, a Volkswagen engineer who pleaded guilty to conspiracy linked to the diesel scam in September. The FBI's witnesses agreed to provide testimony to avoid prosecution in the U.S., according to the court filing.

Mr. Liang was involved in the diesel fraud from the early days. After nearly getting caught in 2013, Volkswagen engineers updated the illicit software. In September 2013, Mr. Liang wrote an email to a colleague, explaining the new update. The colleague replied that the "test sequence sound[ed] exciting," adding: "If this goes through without problems, the function is probably truly watertight!"

According to testimony from Mr. Liang and confidential witnesses, the FBI complaint says, engineers in Volkswagen's engine-development group formed an "ad hoc task force" to formulate responses that aimed to prevent U.S. environment authorities from discovering the defeat device and still appear to be cooperative.

Mr. Schmidt became directly involved in the coverup in the summer of 2015, when it was increasingly difficult for Volkswagen to conceal the defeat device and engineers involved in the scheme were beginning to panic. In one email in June 2015, cited in the government's indictment of Mr. Liang, a Volkswagen employee stressed the need to keep U.S. authorities from testing the company's earliest, or Gen 1, diesel vehicles: "If the Gen 1 goes onto the roller

at the CARB, then we'll have nothing to laugh about." CARB refers to the California Air Resources Board.

Michael Horn, a former CEO of Volkswagen Group of America, testified in a congressional subcommittee on Oct. 8, 2015, that he was told by U.S. employees in July of that year that federal and California environmental regulators wouldn't certify the company's 2016 vehicles because of the "emissions issue." Mr. Horn said he alerted Volkswagen management at company headquarters in Wolfsburg, Germany.

According to the complaint, Mr. Schmidt then played a key role in preparing a meeting in Wolfsburg—internally known as the "damage conference"—at which Volkswagen executives discussed the defeat devices, the consequences for the company and the decision to continue misleading U.S. authorities.

A slide prepared by Mr. Schmidt and others described possible scenarios, according to the complaint: "If the outcome was 'negative for VW' and there was 'no explanation for'" the issues, "there could be an 'Indictment?'" the slide read.

Mr. Schmidt and other Volkswagen employees informed attendees that "U.S. regulators were not aware of the defeat device," the complaint said. "Rather than advocate for disclosure of the defeat device to U.S. regulators, VW executive management authorized its continued concealment."

—Mike Spector in Detroit contributed to this article.

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JAN 10, 2017 @ 07:03 AM

U.S. Case Against Arrested Dieselgate Manager Is Threat To VW Higher-Ups

Bertel Schmitt, CONTRIBUTOR



Oliver Schmidt's mugshot. (Photo by Broward Sheriff's Office via Getty Images)

"VW bosses live dangerously," was the headline in Germany's BILD tabloid (German – paywall) after the FBI arrested Volkswagen manager Oliver Schmidt over the weekend during a trip to Florida. The U.S. Department of Justice is assembling an array of witnesses against Volkswagen while the company is trying to close a deal to make a criminal case go away before Donald Trump comes in.

In the complaint against Schmidt, it is alleged that Volkswagen orchestrated a massive cover-up of its use of illegal defeat devices to cheat on vehicle emissions tests. Sure, this has been insinuated before, but now, the FBI is saying it. Dangerously for VW bosses, the FBI's writ officially implicates other Volkswagen managers in the cover-up, which should impact their travel plans.

Schmidt was general manager of Volkswagen's U.S. Engineering and Environmental Office since 2013 until he was transferred back to Germany in 2015. In that job, he was responsible for managing relations with the EPA and the California Air Resources Board (CARB).

In March 2014, the International Council on Clean Transportation (ICCT) published a study noting what the FBI calls "substantial discrepancies" between the Nitrous Oxide (NOx) emissions of Volkswagen diesel vehicles when tested on the road and official tests in the lab. This study was roundly ignored in the media, but at Volkswagen, it set off a red alert.

"On or about May 20, 2014," says the FBI, "SCHMIDT emailed the then-Chief Executive Officer of VW GOA and another employee a document analyzing "Possible Consequences/Risks: of the

ICCT study. The analysis noted possible monetary penalties per vehicle of up to \$37,500 from the EPA, with 500,000 to 600,000 effected vehicles."



Michael Horn is sworn in at the House Energy and Commerce Committee's Oversight and Investigations Subcommittee (Photo by Chip Somodevilla/Getty Images)

"VW GOA" refers to Volkswagen Group of America. Its CEO at the time was Michael Horn. The former head of Volkswagen aftersales was given the CEO job on Jan 1, 2014. In congressional testimony on October 8, 2015, Horn said under oath that he may have heard of possible and fixable problems in spring 2014. He also claimed he didn't know of any defeat devices until the dieselgate scandal broke in September 2015. In that hearing, Vermont Democrat Peter Welch asked Horn what he will read while he is in jail. Horn astutely put himself out of reach of the arm of U.S. justice, and left Volkswagen in March 2016, not to be seen again.

According to the FBI's informants at Volkswagen, the company, after learning of the ICCT study, "formed an ad hoc task force to formulate responses to questions that arose from the U. S. regulators. VW employees determined not to disclose to U.S. regulators that the tested vehicle models operated with a defeat device. Instead, VW employs pursued a strategy of concealing the defeat device," the FBI alleges.

At around the same time, on May 23, 2014, Volkswagen manager Bernd Gottweis informed his boss, Volkswagen's then-CEO Martin Winterkorn, of the ICCT study, a report in Germany's usually well-informed BILD tabloid [German – paywall] claims. According to the report, Gottweis told Winterkorn that "it can be assumed that the regulator will investigate the VW-systems for the presence of a cycle-beating function in the engine controller software (so-called defeat device)."

The FBI didn't catch that meeting, but it found evidence of another one, a year later.

"On or about July 27, 2015, SCHMIDT and other VW employees presented to VW's executive management in Wolfsburg, Germany, regarding the existence, purpose and characteristics of the defeat device," the FBI claims, continuing that "in the presentation, VW employees assured

VW executive management that U.S. regulators were not aware of the defeat device. Rather than advocate for disclosure of the defeat device to U.S. regulators, VW executive management authorized its continued concealment." The same executive management claimed later not having heard anything of a defeat device until the scandal broke in September 2015

The plan to keep the defeat device concealed was duly followed, until a month later, "Volkswagen stunned U.S. regulators with a confession," as Reuters wrote. According to Reuters, it was at the sidelines of a green car conference on August 21, 2015 when VW employees admitted to EPA and CARB that "the automaker hacked its own cars to deceive U.S. regulators," as Reuters put it. The FBI says the admission came two days earlier, on August 19, 2015, in a meeting at CARB's offices in El Monte, CA. "In direct contravention of instructions from his management," a Volkswagen engineer fessed up at the meeting, the Feds claim.

That engineer is one of two "cooperating witnesses" the FBI found in VW's engine development department. Both have, says the FBI, "agreed to cooperate with the government's investigation in exchange for an agreement that the government will not prosecute [them] in the United States." Also, the government has the cooperation of VW engineer James Liang, who cut a plea deal last September.

Two days before the pivotal CARB meeting, the FBI alleges, Oliver Schmidt said in an email that another Volkswagen manager had recommended that the engineer should not go to the CARB meeting "so he would not have to consciously lie." That engineer, referred to as "CW1" (as in cooperating witness one), went nonetheless, and he apparently was unable to lie.

The identity of the CWs remains cloaked, but there are a few possibilities for CW1.

In a separate lawsuit of the State of New York against Volkswagen, it is alleged that "multiple Volkswagen AG diesel department heads (together with VWGoA EEO heads Stuart Johnson and Oliver Schmidt)" were to attend the August 19 meeting.

The New York suit has yet another version of the revelation. It says that the defeat device was disclosed by Volkswagen in another meeting with CARB on September 3, 2015. In that, Friedrich Eichler, Richard Preuss, Thorsten Duesterdieck, and Burkhard Veldten attended on the Volkswagen side, along with Stuart Johnson and Oliver Schmidt, the complaint says.

Schmidt was arrested by the FBI on Saturday, January 2017, as he got ready to depart Miami International Airport to fly home to Germany, the New York Times said. "Why Mr. Schmidt risked arrest by traveling in the United States remains a mystery," the paper rightly mused. If his lawyers checked whether Schmidt was on the wanted list before he departed to the U.S.,

they would have found nothing: The criminal complaint was filed on December 30, 2016, when he was already in-country.

Schmidt is not in jail, says Germany's Frankfurter Allgemeine, but he cannot leave the country, and he can be incarcerated should he resist his extradition to Michigan to face a court in Detroit.

The government is expected to lean heavily on Schmidt to extricate more information and to implicate the people really responsible for the scandal. While in Germany, Volkswagen managers are out of reach of the long arm of U.S. justice, Germany does not extradite its citizens. If the

U.S. files a Red Notice with Interpol, an honor usually reserved to drug kingpins and war crimes cases, trips outside of Germany can become perilous, even if the destination is not the United States.

Follow @bertelschmitt, the "lone voice telling the real story behind the ridiculous, " according to @LynnCSchreiber

The Grand Island Independent

(Grand Island, Nebraska)

Judge denies bail for indicted Volkswagen executive



HOGP

FILE- This file photo provided by the Broward County Sheriff's Office shows Oliver Schmidt under arrest on Jan. 7, 2017. Schmidt, the general manager of the engineering and environmental office for Volkswagen America, was arrested in connection with the company's emissions-cheating scandal. Schmidt goes before a federal judge Thursday, Jan. 12, 2017, seeking release on bail. (Broward County Sheriff's Office via AP, File)

Posted: Thursday, January 12, 2017 4:12 pm | Updated: 4:33 pm, Thu Jan 12, 2017.

Associated Press |

MIAMI (AP) — A Volkswagen AG executive indicted in the company's U.S. emissions scandal who was arrested in Miami while on vacation was denied release on bail Thursday by a judge who found it was too likely he would flee home to Germany.

Federal prosecutors urged the judge to order Oliver Schmidt, 48, held without bail until trial. They said if Schmidt were to return to Germany, there would be no way for the U.S. to extradite him because he is a German citizen. U.S. Magistrate Judge William Turnoff agreed, noting that Schmidt faces potentially a long prison sentence — the maximum combined penalty for his conspiracy and fraud charges is 169 years — and that the U.S. case against him appears strong.

"I am concerned that he is a citizen of a country that does not have an extradition treaty with the United States," Turnoff said at a hearing.

Schmidt and five other Volkswagen executives were charged Wednesday in an indictment released in Detroit with playing key roles in VW's scheme to knowingly sell nearly 600,000 diesel vehicles that did not meet U.S. pollution emissions standards. The scheme involved software that produced acceptable emission levels in U.S. environmental tests but much higher amounts when the vehicles were driven on the roads.

The company itself has agreed to plead guilty and pay a record \$4.3 billion criminal penalty. According to a plea agreement, the company first began deceiving the Environmental Protection Agency and California state regulators in 2006.

Schmidt is the only indicted executive in U.S. custody, with the others remaining in Germany. He was general manager of a VW environmental engineering office in Auburn Hills, Michigan, from 2012 to 2015, court papers show. During that time, the documents say, Schmidt and others actively deceived regulators about the vehicle emissions and he later deleted documents relevant to the subsequent investigation despite company warnings to preserve them.

Justice Department trial attorney Ben Singer also said Schmidt also was deceptive when he voluntarily met with FBI agents in London, England, in November 2016.

"Mr. Schmidt, when he met with us, lied to us," Singer said.

Schmidt's attorney, David Massey, said he will again seek Schmidt's release on bail when he goes to federal court in Detroit, where the case will be set for trial. Massey said Schmidt has no intention of fleeing the U.S., maintains his innocence and is willing to give up his passport and other identification papers if released on bail and house arrest.

Massey noted that before his arrest, Schmidt had flown with his wife from Germany to Miami and the couple then visited Cuba while knowing he was under U.S. investigation. They returned to Miami and spent the December holidays with friends before he was taken into custody on Saturday at Miami International Airport just before he was to fly home.

Schmidt was unaware when he traveled to the U.S. that he faced possible arrest and federal authorities were notified that he was in this country, Massey said.

"He has shown a willingness to submit to the jurisdiction of the United States," Massey said. "He's not going to try (to flee). He knows he'd get caught."

Former Volkswagen executive arrested while vacationing in Florida

 www.pressherald.com/2017/01/09/former-volkswagen-executive-arrested-while-vacationing-in-florida/

By and ERIC TUCKER Associated Press

DETROIT — The Volkswagen executive who once was in charge of complying with U.S. emissions regulations was arrested over the weekend in Florida and accused of deceiving federal regulators about the use of special software that cheated on emissions tests.

Oliver Schmidt, who was general manager of the engineering and environmental office for VW of America, was charged in a criminal complaint with conspiracy to defraud the U.S. government and wire fraud.

OLIVER SCHMIDT



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Schmidt, 48, a resident of Germany, is the second VW employee to be arrested in an ongoing federal investigation into VW, which has admitted that it programmed diesel-powered vehicles to turn pollution controls on during tests and to turn them off in real-world driving. The scandal has cost VW sales and has tarnished its brand worldwide.

Schmidt was ordered held Monday at a hearing in Miami, where prosecutors argued that he posed a flight risk if released. He faces another hearing Thursday. After that he likely will be taken to Detroit, where the Justice Department investigation is based.

The complaint, dated Dec. 30, accuses Schmidt of conspiring with other Volkswagen executives to mislead U.S. regulators about why their vehicles emitted higher emissions on the road than during tests. Schmidt “offered reasons for the discrepancy” other than the fact that the company was cheating on emissions tests through illegally installed software on its diesel vehicles, court documents say.

Tests commissioned by the nonprofit International Council on Clean Transportation in 2014 found that certain Volkswagen models with diesel engines emitted more than the allowable limit of pollutants. More than a year later, Volkswagen admitted to installing the software on about 500,000 2-liter diesel engines in VW and Audi models in the U.S. The company later said some 3-liter diesels also cheated.

After that study, Schmidt, in an apparent reference to VW’s compliance with emissions limits, wrote a colleague to say, “It should first be decided whether we are honest. If we are not honest, everything stays as it is.”

He later emailed another executive with an analysis that listed possible monetary penalties from the Environmental Protection Agency.

“Difference between street and test stand must be explained. (Intent=penalty!),” Schmidt wrote, according to the complaint.

Schmidt’s bio for a 2012 auto industry conference said he was responsible for ensuring that vehicles built for sale within the U.S. and Canada comply with “past, present and future air quality and fuel economy government



standards in both countries.” It says he served as the company’s direct factory and government agency contact for emissions regulations. The criminal complaint says Schmidt was promoted in 2015 as a principal deputy of a senior manager.

Schmidt’s attorney, David Massey, said in court Monday that his client has assets in the U.S., or the assets of friends, totaling about \$1 million that would secure his bond. He said Schmidt had been cooperating with the FBI on the emissions probe and had no intent to flee. Massey also said Schmidt was arrested while on vacation in South Florida and had no idea he was going to be charged with a crime while in the U.S.

But Justice Department prosecutor Ben Singer said Schmidt had been evasive with regulators and warned a judge that he was a flight risk.

Volkswagen said in a statement Monday that it is cooperating with the Justice Department in the probe. “It would not be appropriate to comment on any ongoing investigations or to discuss personnel matters,” the statement said.

Herbert Diess, a member of Volkswagen AG’s board of management, appeared in Detroit Sunday evening to introduce a new version of VW’s Tiguan SUV ahead of the North American International Auto Show. He wouldn’t comment when asked if some Volkswagen executives refused to come to the auto show for fear of being arrested.

“I’m here, at least,” he said.

He said he hoped the Justice Department investigation would be resolved “as soon as possible.”

The company has agreed to either repair the cars or buy them back as part of a \$15 billion settlement approved by a federal judge in October. Volkswagen agreed to pay owners of 2-liter diesels up to \$10,000 depending on the age of their cars.

In October, VW engineer James Robert Liang, of Newbury Park, California, pleaded guilty to one count of conspiracy to defraud the government and agreed to cooperate with investigations in the U.S. and Germany. Liang was the first person to enter a plea in the wide-ranging case, and authorities were expected to use him to go after higher-ranking VW officials.

A grand jury indictment against Liang detailed a 10-year conspiracy by Volkswagen employees in the U.S. and Germany to repeatedly dupe U.S. regulators by using sophisticated emissions software. The indictment detailed emails between Liang and co-workers that initially admitted to cheating in an almost cavalier manner but then turned desperate after the deception was uncovered.

The complaint against Schmidt also references two cooperating witnesses in the company’s engine development department, who have agreed to speak with investigators in exchange for not being prosecuted.

The EPA found that the 2-liter cars emitted up to 40 times the legal limit for nitrogen oxide, which can cause human respiratory problems.

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